

**REMARKS**

In the Final Office Action<sup>1</sup>, the Examiner rejected claims 1 and 7 as being unpatentable over U.S. Patent Application Publication No. 2004/0243483 to Baumann et al. ("Baumann") in view of U.S. Patent Application Publication No. 2002/0049642 to Moderegger et al. ("Moderegger") and rejected claims 2, 3, 5, 6, 8, 9, and 12-20 as being unpatentable over Baumann and Moderegger, and further in view of "Competitive Procurement," by Alan Joch ("Joch").

Applicant proposes to amend claims 1, 3, 5, 7, 9, 12-15, and 19 and to cancel claim 2 without prejudice or disclaimer. No new matter has been added. Claims 1, 3, 5-9, and 11-20 are pending although claim 11 is withdrawn.

Applicant respectfully requests entry of this Amendment under 37 C.F.R. § 1.116, which places claims 1, 3, 5-9, and 11-20 in a condition for allowance. Applicant submits that this Amendment does not raise new issues or necessitate the undertaking of any additional search of the art by the Examiner. Therefore, this Amendment should allow for immediate action by the Examiner.

Applicant respectfully traverses the rejections of claims 1-3, 5-9, and 12-20 under 35 U.S.C. § 103. Baumann, Moderegger, and Joch, taken alone or in combination, fail to render claims 1-3, 5-9, and 12-20 obvious.

"The key to supporting any rejection under 35 U.S.C. 103 is the clear articulation of the reason(s) why the claimed invention would have been obvious . . . [R]ejections on

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<sup>1</sup> The Office Action contains a number of characterizations of the related art and the claims. Applicant denies to automatically subscribe to any statement or characterization, regardless of whether any such statement or characterization is identified herein.

obviousness cannot be sustained with mere conclusory statements.” M.P.E.P. § 2142, 8th Ed., Rev. 6 (Sept. 2007) (internal citation and inner quotation omitted). “The mere fact that references can be combined or modified does not render the resultant combination obvious unless the results would have been predictable to one of ordinary skill in the art.” M.P.E.P. §2143.01(III) (emphasis in original). “In determining the differences between the prior art and the claims, the question under 35 U.S.C. 103 is not whether the differences themselves would have been obvious, but whether the claimed invention as a whole would have been obvious.” M.P.E.P. § 2141.02(I), (emphasis in original).

Several basic factual inquiries must be made in order to determine the obviousness or non-obviousness of claims of a patent application under 35 U.S.C. § 103. These factual inquiries, set forth in Graham v. John Deere Co., 383 U.S. 1, 17, 148 U.S.P.Q. 459, 467 (1966), require the Examiner to:

- (1) Determine the scope and content of the prior art;
- (2) Ascertain the differences between the prior art and the claims in issue;
- (3) Resolve the level of ordinary skill in the pertinent art; and
- (4) Evaluate evidence of secondary considerations.

The obviousness or non-obviousness of the claimed invention is then evaluated in view of the results of these inquiries. Graham, 383 U.S. at 17-18, 148 U.S.P.Q. at 467; see also KSR Internat'l Co. v. Teleflex Inc., 82 U.S.P.Q.2d 1385 (U.S. 2007); see also M.P.E.P. § 2141(II).

Baumann, Moderegger, and Joch, taken alone or in combination, fail to render obvious claims 1-3, 5-9, and 12-20, as amended, because the scope and content of these references does not include all of the features recited in claims 1-3, 5-9, and 12-20.

For example, claim 1, as amended, recites a method of procuring a component comprising, among other features:

modifying said at least one bid criterion for said component in response to said bid response being undesirable, the modifying including breaking down the component into a plurality of subcomponents and determining at least one modified bid criterion for at least one of the plurality of subcomponents; [and]

establishing a second, modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents.

Baumann discloses a web portal for mediating sales of parts and services.

Baumann, abstract. In Baumann, an auction feature is provided in which a customer creates an invitation to bid on parts or services. Baumann, ¶ 0069. Specifically, the customer enters bid conditions, such as a description of the parts or services to be provided, to be satisfied. Baumann, ¶ 0069. The web portal then searches a database for vendors than can meet the bid conditions. Baumann, ¶ 0069. The web portal submits a request to bid to each of the suppliers meeting the bid conditions. Baumann, ¶ 0075. The suppliers can then accept or decline the request to bid. Baumann, ¶ 0077.

Similarly, Moderegger discloses system for managing auctions for products and services. Moderegger, abstract. In Moderegger, a buyer can enter into a computer system specifications for each item to be bid on. Moderegger, ¶ 0044. The system

then generates a list of performances representing the buyer's desired bid is stored in a database. Moderegger, ¶ 0044. The system subsequently generates a list of potential bidders based on the list of performances and historical bidder information contained in a database, and notifies the bidders on the list. Moderegger, ¶ 0046. The bidders can then download and view the bid invitation and submit a bid on their own computers. Moderegger, ¶ 0047 and 0048. The system receives and evaluates the submitted bids and recommends a favorable bid based on a variety of factors, which the buyer can accept or deny. Moderegger, ¶ 0050-0054. Requests for bidders to revise their bids are submitted to bidders determined to be suitable for additional negotiations. Moderegger, ¶ 0055.

Joch discusses auction sites that are transforming the process of materials procurement. Joch, p. 1, ll. 2-3. One site, SupplierMarket.com, allows potential bidders to view a request for quote (RFQ) (i.e., an invitation to bid) and to place bids for an entire assembly or one component. Joch, p. 2, l. 21 - p. 3, l. 11. Likewise, the buyer can select buyers on a per-component bases. Joch, p. 3, ll. 11-16.

Taken alone or in combination, however, these references do not contemplate "modifying said at least one bid criterion for said component in response to said bid response being undesirable, the modifying including breaking down the component into a plurality of subcomponents and determining at least one modified bid criterion for at least one of the plurality of subcomponents; [and] establishing a second, modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents," as recited in claim 1. That is, the references do not render obvious

“breaking down the component into a plurality of subcomponents and determining at least one modified bid criterion for at least one of the plurality of subcomponents” and “establishing a second, modified bid request using the at least one modified bid criterion for the at least one of the plurality of subcomponents,” in response to receiving an undesirable bid response for the initial component that was subject to bidding.

Applicant's disclosure and claims are directed to alternative strategies that can be employed when no satisfactory bids can be had for what was initially subject to bidding, regardless of how many rounds of bidding are held. In contrast, Baumann, Moderegger, and Joch employ *conventional auction strategies in which the original item(s) subject to bidding are continually bid upon until an acceptable bid is received*. Specifically, the original item subject to bidding is not “[broken] down . . . into a plurality of subcomponents” in response to receiving an undesirable bid response for the original item, as required by claim 1. Nor is a “modified bid criterion [determined] for at least one of the plurality of subcomponents” in response to the undesirable bid response received for the original item, as required by claim 1. Likewise, nor is a “a second, modified bid request [established] using the at least one modified bid criterion for the at least one of the plurality of subcomponents,” as recited in claim 1. In other words, in Baumann, Moderegger, and Joch, the same item(s) are bid upon until an acceptable bid is received.

For at least the foregoing reasons, the scope and content of Baumann, Moderegger, and Joch, taken alone or in any combination, does not include all of the features recited in claim 1. Thus, these references do not render claim 1 obvious.

Applicant respectfully requests the withdrawal of the rejection of claim 1 under § 103 and the allowance of this claim.

Independent claim 7, although of a different scope than claim 1, recites features similar to those discussed above in connection with claim 1. Thus, Baumann, Moderegger, and Joch, taken alone or in any combination, also do not render claim 7 obvious. Applicant respectfully requests the withdrawal of the rejection of claim 7 under § 103 and the allowance of this claim.

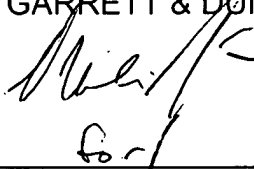
Claims 3, 5, 6, 8, 9, and 12-20 depend from one of claims 1 and 7. Thus, Baumann, Moderegger, and Joch, taken alone or in any combination, also do not render claims 3, 5, 6, 8, 9, and 12-20 obvious. Applicant respectfully requests the withdrawal of the rejection of claims 3, 5, 6, 8, 9, and 12-20 under § 103 and the allowance of these claims.

In view of the foregoing, Applicant respectfully requests reconsideration and reexamination of this application and the timely allowance of the pending claims.

Please grant any extensions of time required to enter this response and charge any additional required fees to our Deposit Account 06-0916.

Respectfully submitted,

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